

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

S & B 11915 WARFIELD, LLC

VS.

**CONTINENTAL CASUALTY
COMPANY**

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NO. 5:17-cv-00705

JURY DEMAND

**DEFENDANT CONTINENTAL CASUALTY COMPANY'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Continental Casualty Company files this Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division, on the basis of diversity of citizenship and amount in controversy and respectfully shows:

**I.
FACTUAL AND PROCEDURAL BACKGROUND**

1. On June 23, 2017, Plaintiff, S & B Warfield, LLC, filed its Original Petition in the matter styled *S & B 11915 Warfield, LLC v. Continental Casualty Company*, Cause No. 2017-CI-11586, in the 408th Judicial District Court of Bexar County, Texas. The lawsuit arises out of a claim Plaintiff made for damages to their property under an insurance policy with Continental Casualty Company.

2. Plaintiff served Continental Casualty Company with a copy of the original Petition on or about June 30, 2017.

3. Continental Casualty Company filed its Original Answer on July 24, 2017.

4. Continental Casualty Company files this notice of removal within 30 days of receiving Plaintiff's pleading. *See* 28 U.S.C. §1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action.

5. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. §1446(a). A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff.

6. As required by 28 U.S.C. § 1446(a), simultaneously with the filing of this notice of removal, attached hereto as Exhibit "A" is an Index of State Court Documents, a copy of the Docket Sheet is attached as Exhibit "B," a copy of the Plaintiff's Original Petition, Jury Demand, and Request for Disclosure is attached as Exhibit "C", a copy of Plaintiff's Counsel letter addressed to the Clerk requesting civil process citation and service via certified mail to defendant, Continental Casualty Company is attached as Exhibit "D", a copy of the Civil Case Information Sheet is attached as Exhibit "E", a copy of the Bexar County District Clerk Request for Process is attached as Exhibit "F", a copy of the Citation is attached as Exhibit "G", a copy of the Officer's Return of Service of Citation is attached as Exhibit "H", a copy of a letter dated July 19, 2017 to the District Clerk requesting copies of the civil filing records is attached as Exhibit "I", a copy of Continental Casualty Company's Original Answer and Jury Demand is attached as Exhibit "J", a copy of a letter dated July 25, 2017 to the District Clerk enclosing a check supplementing payment for the copies of the civil filing records is attached as Exhibit "K", and a copy of an email dated July 27, 2017 from the Clerk sending copies of the requested documents is attached as Exhibit "L".

7. In accordance with Rule CV-3 of the Local Rules of the United States District Court for the Western District of Texas, Continental Casualty Company is filing a completed Civil Cover Sheet and Supplemental Civil Cover Sheet with the filing of this Notice of Removal.

8. Venue is proper in this Court under 28 U.S.C. §1441(a) because this district and division include Bexar County, Texas, the place where the removed action has been pending and where the incident giving rise to this lawsuit took place.

II.

BASIS FOR REMOVAL

9. Removal is proper based on diversity of citizenship under 28 U.S.C. §§1332(a), 1441(a) and 1446.

A. THE PROPER PARTIES ARE OF DIVERSE CITIZENSHIP

10. Plaintiff, S & B 11915 Warfield, LLC is, and was at the time the lawsuit was filed, a resident and citizen of Texas. *See* Pl's Original Pet., Paragraph 2, Exhibit A. Therefore, Plaintiff is a citizen of Texas for diversity purposes.

11. Defendant Continental Casualty Company is an Illinois corporation with its principal place of business in Illinois. Therefore, Continental Casualty Company is a citizen of Illinois for diversity purposes.

12. Because Plaintiff is a citizen of Texas and Defendant Continental Casualty Company is a citizen of Illinois, complete diversity of citizenship exists among the proper parties.

B. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

13. This is a civil action in which the amount in controversy exceeds \$75,000.00. Plaintiff's Petition expressly alleges that "Plaintiff seeks only monetary relief of no less than

\$100,000, but no more than \$200,000” (Pl.’s Orig. Pet., Paragraph 59, Exhibit A). Thus, the express allegations in the Petition exceed the amount in controversy threshold of \$75,000.00.

CONCLUSION AND PRAYER

All requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. Accordingly, Defendant Continental Casualty Company hereby removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Anthony S. Cox

Anthony S. Cox

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ATTORNEYS FOR DEFENDANT

CONTINENTAL CASUALTY COMPANY

CERTIFICATE OF SERVICE

The undersigned does certify that on July 28, 2017, the foregoing *Defendant Continental Casualty Company's Notice of Removal* was electronically filed, as required by the United States District Court for the Western District of Texas, San Antonio Division, using the Court's CM/ECF filing system, which will provide notice and a copy of this document to the following if a registered ECF filer in the United States District Court for the Western District of Texas, San Antonio Division. The undersigned further certifies that on the 28th day of July, 2017, a true and correct copy of the foregoing *Defendant Continental Casualty Company's Notice of Removal* was served on the following via Certified Mail, Return Receipt Requested:

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